

IEPA Log No.: **C-0194-16**
CoE appl. #: LRC-2016-5-RPP

Public Notice Beginning Date: October 14, 2016
Public Notice Ending Date: November 14, 2016

Section 401 of the Federal Water Pollution Control Act
Amendments of 1972

Section 401 Water Quality Certification to Discharge into Waters of the State

Public Notice/Fact Sheet Issued By:

Illinois Environmental Protection Agency
Bureau of Water
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-3362

Name and Address of Discharger: Chicago District, Corps of Engineers, Regulatory Branch, 231 South LaSalle, Suite 1500, Chicago, IL 60604

Discharge Location: Illinois Counties of Cook, DuPage, Kane, Lake, McHenry, and Will

Name of Receiving Water: All waterbodies in the above Illinois counties

Project Description: Reissuance of the Chicago District's Regional Permit Program

The Illinois Environmental Protection Agency (IEPA) has received an application for a Section 401 water quality certification for discharges into the waters of the state associated with several Section 404 regional general permits proposed for issuance by the Chicago District U.S. Army Corps of Engineers. The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice. The last day comments will be received will be on the Public Notice period ending date unless a commenter demonstrating the need for additional time requests an extension to this comment period and the request is granted by the IEPA. Interested persons are invited to submit written comments on the project to the IEPA at the above address. Commenters shall provide their names and addresses along with comments on the certification application. Commenters may include a request for public hearing. The certification and notice number(s) must appear on each comment page.

The attached Fact Sheet provides a description of the project and the antidegradation assessment. The attached draft proposed 401 certification approval includes conditions based on the proposed Regional Permits published on August 1, 2016 at <http://www.lrc.usace.army.mil/Missions/Regulatory/Public-Notices/>.

The application, Public Notice/Fact Sheet, comments received, and other documents are available for inspection and may be copied at the IEPA at the address shown above between 9:30 a.m. and 3:30 p.m. Monday through Friday when scheduled by the interested person.

If written comments or requests indicate a significant degree of public interest in the certification application, the IEPA may, at its discretion, hold a public hearing. Public notice will be given 30 days before any public hearing. If a Section 401 water quality certification is issued, response to relevant comments will be provided at the time of the certification. For further information, please call Darren Gove at 217/782-3362.

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Fact Sheet for Antidegradation Assessment

For: U.S. Army Corps of Engineers, Chicago District - Reissuance and Modification of the Chicago District Regional Permit Program

IEPA Log No. C-0194-16

Contact: Brian Koch at 217/558-2012

Public Notice Start Date: October 14, 2016

The U.S. Army Corps of Engineers (Corps) Chicago District proposes reissuance and modification of the Regional Permit Program. The Regional Permit Program (RPP) is designed to cover activities under Section 10 of the 1899 Rivers and Harbors Act and Section 404 of the federal Clean Water Act that would have minimal individual and cumulative impacts on aquatic resources in the counties of Cook, DuPage, Kane, Lake, McHenry, and Will. The current RPP was issued on April 1, 2012 and is set to expire on April 1, 2017. The Chicago District issued a public notice concerning the proposed RPP consisting of 13 Regional Permits (RPs) on August 1, 2016. The Corps public notice and additional information can be found at <http://www.lrc.usace.army.mil/Portals/36/docs/regulatory/publicnotices/2017RPP-PN.pdf>. At this time, no new RPs are being proposed and no RPs are proposed to be deleted. The Chicago District is only proposing minor adjustments and clarifications to the existing RPs. The Illinois Environmental Protection Agency (Agency) is considering general water quality certification pursuant to Section 401 of the Clean Water Act for the proposed RPP.

An Antidegradation assessment in accordance with 35 Ill. Adm. Code 302.105 (Antidegradation standard) has been conducted on the conditions and limitations of the RPP. The purpose of this assessment is to determine whether or not the activities authorized under the proposed RPP will meet Illinois' water quality standards and therefore qualify for general water quality certification pursuant to Section 401 of the Clean Water Act. The Agency is proposing to issue general Section 401 water quality certification with conditions for the following proposed RPs.

- RP 1 Residential, Commercial And Institutional Developments
- RP 2 Recreation Projects
- RP 3 Transportation
- RP 4 Minor Discharges And Dredging
- RP 5 Aquatic Habitat Restoration, Establishment, And Enhancement
- RP 6 Completed Enforcement Actions
- RP 7 Temporary Construction Activities
- RP 8 Utility Line Projects
- RP 9 Maintenance
- RP 10 Bank Stabilization
- RP 11 Marine Structures And Activities
- RP 12 Bridge Scour Protection
- RP 13 Cleanup Of Toxic And Hazardous Materials

Currently, Section 401 water quality certification has been issued with conditions for every Regional Permit in the RPP. However, the general 401 certification is denied for RP 4 and RP 8 where activities will be performed in certain named waters. An individual Section 401 water quality certification is required for activities covered by RP 4 that take place within the following waters:

- 1) Fox River (including the Chain O'Lakes)
- 2) Lake Michigan
- 3) Pettibone Creek
- 4) Kankakee River.

Similarly, an individual Section 401 water quality certification is required for activities covered by RP 8 that take place within the following waters:

- 1) Chicago Sanitary and Ship Canal
- 2) Calumet-Sag Channel

- 3) Little Calumet River
- 4) Grand Calumet River
- 5) Calumet River
- 6) Chicago River (main stem)
- 7) South Branch of the Chicago River (including South Fork)
- 8) North Branch of the Chicago River (including East and West Forks and Skokie Lagoons)
- 9) Lake Calumet
- 10) Des Plaines River
- 11) Fox River (including the Fox Chain of Lakes)
- 12) Lake Michigan
- 13) Pettibone Creek
- 14) Kankakee River.

Identification and Characterization of the Affected Water Body.

The Regional Permit Program regulates activities that may be applied to a variety of General Use, Public and Food Processing Water Supply, Chicago Area Waterway System and Lower Des Plaines River, and Lake Michigan Basin waters.

All impacted wetlands will be required to be fully delineated in accordance with the USACOE's Wetland Delineation Manual. Any impacts to surface waters and/or wetlands will need to be mitigated for in accordance with regulations published in the Federal Register dated April 10, 2008 under 33 CFR Parts 325 and 332 and 40 CFR Part 230 entitled "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule."

Fate and Effect of Parameters Proposed for Increased Loading.

The Antidegradation Assessment finds that the activities proposed for general 401 water quality certification, when conducted in a manner that is consistent with the terms and conditions of the Regional Permit Program and the Section 401 certification conditions, will not result in perceptible increases in pollutant loading to affected water bodies and will be fully protective of all existing uses.

Purpose and Social & Economic Benefits of the Proposed Activity.

A variety of benefits are associated with the activities allowed by the RPP. These generally entail improvements in transportation; maintenance of waters for transportation; residential, commercial, and recreational development; bank stabilization; and restoration of waters for aquatic life uses. This assessment finds that activities covered by the RPP and proposed for 401 certification will benefit the community at large and that any pollutant loadings associated with such activities are necessary for important social or economic development.

Assessments of Alternatives for Less Increase in Loading or Minimal Environmental Degradation.

The review of the activities allowed under each of the Regional Permits proposed for general 401 water quality certification finds that the conditions and limitations defined by the RPP and Section 401 certification conditions will assure that all technically and economically reasonable measures to avoid or minimize the extent of the impacts will be incorporated into the proposed activities.

Agency Conclusion.

This preliminary assessment in regards to 401 water quality certification issuance for the U.S. Army Corps of Engineers, Chicago District Regional Permit Program was conducted pursuant to the Illinois Pollution Control Board regulation for Antidegradation found at 35 Ill. Adm. Code 302.105 (Antidegradation standard) and was based on the information available to the Agency at the time this Antidegradation review summary was written. We tentatively find that activities proposed for general 401 water quality certification subject to conditions would have minimal individual and cumulative impacts on the aquatic resources within the State of Illinois. Comments received during the 401 water quality certification public notice period will be evaluated before a final decision is made by the Agency.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397
BRUCE RAUNER, GOVERNOR **ALEC MESSINA**, ACTING DIRECTOR

217/782-3362

DRAFT

Chicago District
Corps of Engineers
231 S. LaSalle Street
Suite 1500
Chicago, IL 60604

Re: IEPA Log # C-0194-16
Chicago Regional Permits and Conditions for Proposed Regional Permits:

- | | |
|---|--------------------------------------|
| 1. Residential, Commercial and Institutional Developments | 8. Utility Line Projects |
| 2. Recreation Projects | 9. Maintenance |
| 3. Transportation Projects | 10. Bank Stabilization |
| 4. Minor Discharges and Dredging | 11. Marine Structures and Activities |
| 5. Wetland and Stream Restoration and Enhancement | 12. Bridge Scour Protection |
| 6. Completed Enforcement Actions | 13. Cleanup of Toxic and Hazardous |
| 7. Temporary Construction Activities | Materials |

Dear Sir or Madam:

This Agency has reviewed the proposed Regional Permits and Conditions for the above referenced projects public noticed by the Chicago District on August 1, 2016. The following comments are provided for your use and information.

This Agency hereby issues certification under Section 401 of the Clean Water Act (PL 95-217) for the proposed regional permits subject to the attached conditions.

The determination to include the attached conditions was made with respect to the cause of water pollution as defined in the Illinois Environmental Protection Act. These comments are directed at the effect on water quality of the construction procedures involved in the project and are not an approval of any discharge resulting from the completed facility, nor an approval of the design of the facility. These comments do not supplant any permit responsibilities of the applicant toward the Agency.

If you have any questions concerning this letter, please contact Darren Gove at 217-782-3362.

Sincerely,

DRAFT

Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

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Attachment

cc: IEPA, Records Unit
IDNR, OWR, Bartlett

4302 N. Main St., Rockford, IL 61103 (815) 987-7760
9511 Harrison St., Des Plaines, IL 60016 (847) 294-4000
595 S. State, Elgin, IL 60123 (847) 608-3131
2125 S. First St., Champaign, IL 61820 (217) 278-5800

2009 Mall St., Collinsville, IL 62234 (618) 346-5120
412 SW Washington St., Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main St., Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph, Suite 10-300, Chicago, IL 60601

USEPA, Region 5

CoE, Louisville District (Newburgh)

CoE, Louisville District (Indianapolis)

CoE, Memphis District

CoE, Rock Island District

CoE, St. Louis District

DRAFT

Illinois Environmental Protection Agency

<<Future Date>>

Section 401 Water Quality Certification Conditions for Regional Permits regarding:

- | | |
|---|--|
| 1. Residential, Commercial and Institutional Developments | 8. Utility Line Projects |
| 2. Recreation Projects | 9. Maintenance |
| 3. Transportation Projects | 10. Bank Stabilization |
| 4. Minor Discharges and Dredging | 11. Marine Structures and Activities |
| 5. Wetland and Stream Restoration and Enhancement | 12. Bridge Scour Protection |
| 6. Completed Enforcement Actions | 13. Cleanup of Toxic and Hazardous Materials |
| 7. Temporary Construction Activities | |

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1. The applicant shall not cause:
 - a. a violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulations;
 - b. water pollution defined and prohibited by the Illinois Environmental Protection Act;
 - c. interference with water use practices near public recreation areas or water supply intakes;
 - d. a violation of applicable provisions of the Illinois Environmental Protection Act.
2. The applicant shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
3. Except as allowed under condition 7, 9 and 10, any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by this Agency. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
4. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be constructed during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.
5. The applicant shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS; 2015).
6. The applicant is advised that the following permit(s) must be obtained from the Agency: The applicant must obtain permits to construct sanitary sewers, water mains and related facilities prior to construction.
7. Backfill used in stream crossing trenches shall be predominantly sand or larger size material, with less than 20% passing a #230 U.S. sieve.
8. Any channel relocation shall be constructed under dry conditions and stabilized to prevent erosion prior to the diversion of flow.
9. Backfill used within trenches passing through surface waters of the State, except wetland areas, shall be clean coarse aggregate, gravel or other material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material may be used only if:
 - a) particle size analysis is conducted and demonstrates the material to be at least 80% sand or larger size material, using #230 U.S. sieve; or
 - b) excavation and backfilling are done under dry conditions.

10. Backfill used within trenches passing through wetland areas shall consist of clean material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material shall be used to the extent practicable, with the upper six (6) to twelve (12) inches backfilled with the topsoil obtained during trench excavation.
11. Any applicant proposing activities in a mined area or previously mined area shall provide to the IEPA a written determination regarding the sediment and materials used which are considered "acid-producing material" as defined in 35 Il. Adm. Code, Subtitle D. If considered "acid-producing material," the applicant shall obtain a permit to construct pursuant to 35 Il. Adm. Code 404.101.
12. Asphalt, bituminous material and concrete with protruding material such as reinforcing bar or mesh shall not be 1) used for backfill, 2) placed on shorelines/stream banks, or 3) placed in waters of the State.
13. Applicants that use site dewatering techniques in order to perform work in waterways for construction activities approved under Regional Permits 1 (Residential, Commercial and Institutional Developments), 2 (Recreation Projects), 3 (Transportation Projects), 7 (Temporary Construction Activities), 9 (Maintenance) or 12 (Bridge Scour Protection) shall maintain flow in the stream during such construction activity by utilizing dam and pumping, fluming, culverts or other such techniques.
14. In addition to any action required of the Regional Permit 13 (Cleanup of Toxic and Hazardous Materials Projects) with respect to the "Notification" General Condition 23, the applicant shall notify the Illinois EPA Bureau of Water, of the specific activity. This notification shall include information concerning the orders and approvals that have been or will be obtained from the Illinois EPA Bureau of Land (BOL) for all cleanup activities under BOL jurisdiction, or for which authorization or approval is sought from BOL for no further remediation. This Regional Permit is not valid for activities that do not require or will not receive authorization or approval from the BOL.
15. The applicant shall implement Best Management Practices (BMPs) to protect water quality, preserve natural hydrology and minimize the overall impacts to aquatic resources during and after construction. If the project involves a water with an approved Total Maximum Daily Load (TMDL) allocation for any parameter, measures which ensure consistency with the assumption and requirements of the TMDL shall be included. TMDL program information and water listings are available at <http://www.epa.illinois.gov/topics/water-quality/watershed-management/tmdls/index>. If the project involves an impaired water listed on the Illinois Environmental Protection Agency's Section 303(d) list for suspended solids, turbidity, or siltation, measures designed for at least a 25-year, 24-hour rainfall event shall be incorporated. Impaired waters are identified at <http://www.epa.illinois.gov/topics/water-quality/watershed-management/tmdls/303d-list/index>.
16. Earthen granular fill used for construction of temporary structures in waters of the State shall have less than 20% passing a #230 U.S. sieve.
17. The use of directional drilling to install utility pipelines below surface waters of the State is hereby certified provided that:
 - a) All pits and other construction necessary for the directional drilling process are located outside of surface waters of the State;
 - b) All drilling fluids shall be adequately contained such that they cannot cause a discharge to surface waters of the State. Such fluids shall be managed such that they are not discharged to waters of the State and disposed of appropriately in accordance with the regulations at 35 Il. Adm. Code Subtitle G.
 - c) Erosion and sediment control is provided in accordance with Conditions 2, 4, and 5.